

CITY COUNCIL AGENDA

OCTOBER 26, 2004

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:06 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:38 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (District 9)**
Flute Ensemble, Ida Price Middle School, Catherine Lorigan, Music Director delivered a flute presentation.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring October 20, 2004 as National Disability Mentoring Day and the month of October 2004 as Employment of Persons with Disabilities Awareness Month, with the theme: “You're Hired! Success Knows No Limitations.” (Disability Advisory Commission/LeZotte)
Mayor Gonzales was joined at the podium by Council Member LeZotte to present a proclamation declaring October 20, 2004 as National Disability Mentoring Day and the month of October 2004 as Employment of Persons with Disabilities Awareness Month, with the theme: “You’re Hired! Success Knows No Limitations” to Carl Vitt, Chair of the Disability Advisory Committee.

1 CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Bay Area Asphalt and Concrete Works recognizing its important contribution to the economy. (Mayor/Chavez)
(Orders of the Day)
Mayor Gonzales, Council Member Chavez, Director of Economic Development, Paul Krutko, and Economic Development Officer Christopher Coggins, presented a commendation to Scott and Jackie Colander of Bay Area Asphalt and Concrete Works in recognition of their important contributions to the economy.

2 CONSENT CALENDAR

- 2.1 Approval of Minutes.
None.

- 2.2 Final adoption of ordinances.
None.

- 2.3 Report on bids for the City Facilities Service Conversions Project.

Recommendation:

- (a) Report on bids opened on August 26, 2004 for the 5th, 6th, and 7th Streets City Facilities Service Conversions Project and approval to reject those bids.
- (b) Report on bids opened on September 30, 2004 and award of contract for the 5th, 6th, and 7th Streets City Facilities Service Conversions to the low bidder, Beltramo Electric, Inc., in the amount of \$174,950, and approval of a contingency in the amount of \$18,000.

CEQA: Resolution No. 68905, PP02-03-061. (Public Works)

The Report was accepted.

- 2.4 Approval to set a Public Hearing for the vacation of Hillsdale Avenue, between Pearl Avenue and Guadalupe River.

Recommendation: Adoption of a resolution setting a public hearing for November 30, 2004 at 1:30 p.m. for the vacation of Hillsdale Avenue, between Pearl Avenue and Guadalupe River. CEQA: Exempt. Council District 6. (Public Works)

Resolution No. 72370 adopted.

2 CONSENT CALENDAR

2.5 Approval of an agreement for the use, management, and operations of the Municipal Stadium.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement for a term of up to four years with Baseball Acquisition Company, Inc. (BAC) for the use, management, and operations of Municipal Stadium, under which BAC would pay to the City 2.5% of contractor's gross receipts or \$10,000 annually, whichever is greater. CEQA: Exempt, PP04-275. Council District 7. (Parks, Recreation and Neighborhood Services)

Resolution No. 72371 adopted.

Staff directed to include an "out-clause" in the agreement to allow other uses for the Municipal Stadium and to keep an eye out for other properties.

2.6 Approval of an ordinance amending the City's Revolving Door Ordinance.

Recommendation: As recommended by the Blue Ribbon Task Force, approve an ordinance amending Chapter 12.10 of Title 12 of the San José Municipal Code to revise the City of San José Revolving Door Ordinance. (Blue Ribbon Task Force/City Attorney)

Ordinance No. 27271 passed for publication.

2.7 Approval of a nomination to the San Jose Silicon Valley Workforce Investment Network Board of Directors.

Recommendation: Approval of a nomination to the San Jose Silicon Valley Workforce Investment Network Board of Directors. (Mayor)
(Rules Committee referral 10/20/04)

Approved.

2.8 Approval of City's response to the Grand Jury Report on Financial and Performance Audits for the County and Cities in the County.

Recommendation: Approval of City's response to the Grand Jury Report on Financial and Performance Audits for the County and Cities for the County. (City Auditor/City Attorney)

(Rules Committee referral 10/20/04)

Approved.

2 CONSENT CALENDAR

2.9 Approval for a change order for the Alameda at Martin and Cleaves Improvements Project.

Recommendation:

- (a) Approval of Contract Change Order No. 1 with Bellecitti & Pellicciotti Construction Company, Inc., for the Alameda at Cleaves Improvements, in the amount of \$26,300, for a total contract amount of \$277,900.

Approved.

- (b) Adoption of the following appropriation ordinance amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

- (1) Increase the appropriation to the Department of Public Works for the Alameda at Martin and Cleaves Improvements Project in the amount of \$46,300.

- (2) Decrease Ending Fund Balance by \$46,300.

CEQA: Exempt, File No. H01-040. Council District 6. (Public Works/City Manager's Office)

(Rules Committee referral 10/20/04)

Ordinance No. 27272 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

None.

3.2 Report of the Rules Committee

Vice Mayor Dando, Chair

None.

3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

None.

3.4 Approval of actions related to the Customer Service and Performance Management System (CUSP).

Recommendation: Adoption of a resolution authorizing the City Manager to execute a consultant services contract to assist City staff with a business process gap analysis, contract negotiations, and provide technical architecture and quality assurance support related to the development of the BearingPoint/PeopleSoft contract scope of services.

CEQA: Not a Project. (Finance)

(Deferred from 10/5/04 – Item 3.4, and 10/19/04 – Item 3.4)

Deferred to 11/2/04.

3 STRATEGIC SUPPORT SERVICES

3.5 Presentation on the systems furniture procurement process for the New City Hall Project.

Recommendation: Presentation on the systems furniture procurement process for the New City Hall Project. (City Manager's Office/General Services)

Presentation accepted. No Council action taken.

Staff directed to include an option for Herman Miller compatible components, to ensure adequate outreach to small, local businesses, and to provide additional information about the seven perspective bidders, including names and if any are local vendors.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee
Council Member Chavez, Chair**

None.

**4.2 Report of the Driving a Strong Economy Committee
Council Member Williams, Chair**

None.

4.3 Discussion and action on the risks the City undertakes when it participates in the development of affordable housing projects.

Recommendation: Discussion and action on the risk the City undertakes when it participates in the development of affordable housing projects. (Reed)

Deferred

5 RECREATION & CULTURAL SERVICES

**5.1 Report of the All Children Achieve Committee
Council Member Yeager, Chair**

None.

5 RECREATION & CULTURAL SERVICES

5.2 Approval of actions to put in place grant agreements for the San José B.E.S.T. Eligible Service Providers (2004-2007).

Recommendation:

- (a) Approval of the list of San José B.E.S.T. Eligible Service Providers for 2004-2007.
- (b) Adoption of a resolution authorizing the City Manger to negotiate and execute grant agreements and amendments with the San José B.E.S.T. Eligible Service Providers, consistent with the directives of the Mayor's Gang Prevention Task Force for a term of September 1, 2004 through August 31, 2005, and for a total amount not to exceed \$2,465,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)
(Deferred from 10/5/04 – Item 5.3 and 10/12/04 – Item 5.3)

Dropped. Heard by council on 10/19/04.

5.3 Acceptance of the Library Benefit Assessment District Annual Report.

Recommendation: Acceptance of the Library Benefit Assessment District Annual Report. CEQA: Not a Project. (Library)

The report was accepted.

5.4 Approval of the application process and rating criteria for the 2005-2006 Community Development Block Grant (CDBG) application cycle.

Recommendation: Approval of the application process and rating criteria for the 2005-2006 CDBG application cycle. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Approved.

5.5 Approval of the application process, rating criteria, and policies for the 2005-2006 Healthy Neighborhoods Venture Fund (HNVF) application cycle.

Recommendation: Approval of the application process, evaluation criteria, and policies for the 2005-2006 Healthy Neighborhoods Venture Fund application cycle. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Approved.

5 RECREATION & CULTURAL SERVICES

5.6 Approval of actions for the Los Gatos Creek Trail Reach 5 Project.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute:

- (a) A Bicycle Expenditure Plan (BEP) Grant Agreement with the Valley Transportation authority in an amount not to exceed \$2,400,000 and include a required match to the grant funding of \$600,000 by the City; and submit all necessary documents to effectuate the grant funding.
- (b) A grant agreement with the Open Space Authority 20% Funding Program in an amount not to exceed \$600,000 and direct the use of \$600,000 in the Open Space authority 20% Funding Program to provide the required 20% matching fund as required to obtain the Bicycle Expenditure Plan grant funding.

CEQA: Exempt, PP04-290. Council Districts 3 and 6. SNI: Delmas Park and Burbank/Del Monte. (Parks, Recreation and Neighborhood Services)

Resolution No. 72372 adopted.

Staff directed to provide an updated matrix timeline for completion of the proposed project.

5.7 Approval to award a contract for the Southside Community Center Project (Phase 3).

Recommendation: Report on bids and award of contract for the Southside Community Center Phase 3 Project to the low bidder, Coast Side Associates, Corp. to include the base bid and Add Alternate Nos. 1, 2, 3, and 4 in the amount of \$1,248,762, and approval of a contingency in the amount of \$188,000. CEQA: Exempt, PP02-02-028. Council District 2. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

5.8 Follow-up report and consider possible action on Coyotes in the Villas of Almaden.

Recommendation:

- (a) Receive report and consider possible action to mitigate the coyote presence in the Villas of Almaden.

Report received.

- (b) Consider approval of an ordinance amending Title 7 of the San Jose Municipal Code to add Chapter 7.11 to ban the feeding of certain wild animals including deer, mountain lions, coyote, fox, opossums, skunks, bears and raccoons.
CEQA: Exempt, PP04-289

Ordinance No. 27273 passed for publication.

5 RECREATION & CULTURAL SERVICES

5.8 Follow-up report and consider possible action on Coyotes in the Villas of Almaden. (Cont'd.)

- (c) Consider adoption of an urgency ordinance amending Section 7.10.010 of Title 7 of the San Jose Municipal Code to create an exemption to the prohibition on animal traps, for State and County employees and their duly authorized agents, in the discharge of their official duties, and initiation of a permanent ordinance for the same purpose.

CEQA: Exempt, PP04-276.

(Parks, Recreation & Neighborhood Services/City Attorney's Office)

(Council referral 10/12/04 - Item 5.4)

No action; motion failed. Noes: Campos, Gregory, LeZotte, Williams.

Council moved approval of recommendations 2, 3 and 4 outlined in Vice Mayor Dando's memorandum, dated October 25, 2004, as follows (2) a direction to staff to work in partnership with the residents of the Villas of Almaden and the Wildlife Center of Silicon Valley to implement a long-term plan for deterring coyotes from returning to the residential neighborhoods, (3) to direct staff to work with the Villas of Almaden Homeowners Association to identify alternative landscaping material that may be used in the future that would deter coyotes from returning to the Villas, (4) to direct staff to add additional dog leash signage in Guadalupe Oak Grove, Jeffery Fontana, and T.J. Martin arks and provide additional enforcement of the dog leash signage.

City Attorney directed to expand the definition of "Wild Game", consistent with State law.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair

None.

6 TRANSPORTATION SERVICES

6.2 Approval of the acquisition of real properties located at 1984 and 2000 Oakland Road as part of the Oakland Road Street Widening Project.

Recommendation: Approval of purchase and sale agreements with:

- (a) Walter Lee Huddleston, Sr., in the amount of \$94,000, for fee title to a portion of 1984 Oakland Road (APN: 244-22-013), in the area of the proposed Oakland Road Street Widening Project; and,
- (b) GKW Partners, LLC, a California Limited Liability Company, in the amount of \$324,000, for fee title to a portion of property located at 2000 Oakland Road (APN: 244-22-016, -017, -018) and twelve-month temporary construction easement on an adjoining portion of the property, in the area of the proposed Oakland Road Street Widening Project.

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)
Approved.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

8.1 Approval to award a contract for the Airport's On-Call Construction Contract.

Recommendation: Report on bids and award of contract for the Norman Y. Mineta San José International Airport - On-Call Construction Contract to the lowest responsive bidder, Granite Rock Co. DBA Pavex Construction Division, in an amount not to exceed \$1,400,000, for a period of two years from the date of award or until expenditures under the contract reach \$1,400,000, whichever occurs first. CEQA: Resolutions Nos. 67380 and 71451, PP04-03-087. (Public Works/Airport)

Deferred to 11/2/04.

9 PUBLIC SAFETY SERVICES

9.1 Acceptance of the report regarding Public Outreach on a proposed High-Rise Safety ordinance.

Recommendation: Acceptance of the report regarding Public Outreach on a proposed High-Rise Safety ordinance that would require installation of the following equipment and systems in new high rise buildings: breathing air system; electrical standpipe system; and radio repeater system. CEQA: Not a Project. (Fire)

[Council referral 10/12/04 – Item 3.2(g)(1)]

The report was accepted.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Item 10.1 in a Joint session at 5:24 p.m.

10.1 Approval of actions for the Park Impact Ordinance and the Parkland Dedication Ordinance.

Recommendation:

- (a) Approval of an ordinance by the City Council amending Chapters 14.25 (Park Impact Ordinance) and 19.38 (Parkland Dedication Ordinance) of the San José Municipal Code, in order to continue the suspension of the exemption for units affordable to low-income residents until December 31, 2005, and to extend the Parkland In-Lieu Fee Voucher Program for eligible low-income residential units.

Ordinance No. 27274 passed for publication.

- (b) Adoption of resolutions by the City Council and the Redevelopment Agency Board approving the parkland In-Lieu Fee Voucher Program for the payment of subsidized Parkland fees for low-income units by the Redevelopment Agency.

CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

(Rules Committee referral 10/20/04)

Agency Resolution No. 5553 adopted.

Resolution No. 72373 adopted.

The Redevelopment Agency Board portion of the meeting adjourned at 5:25 p.m.

- Closed Session Report

None.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9633	NE/C of 8 th St. and Hedding St.	3	Norsca Associates LP., et al.	100 Units	Multi- Family Attached	

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9516	S/S of Curtner Ave. E/O Highway 87	7	Taylor Woodrow Homes, Inc.	1 Lot/136 Units	Approve

- Open Forum—
 - 1) William Garbett
- Adjournment

The meeting was adjourned at 5:25 p.m. in memory of Ross Gritts, a proud member of the American Indian Community of San José, for his work with the American Indian Health Center, American Indian Education Center and the Bay Area community.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

7.1 Adoption of resolutions pertaining to the FY 2004-2005 Redevelopment Agency Capital Budget and the FY 2005-2006 Capital Improvement Program.

Recommendation: Adoption of resolutions by the Agency Board pertaining to the Agency's annual budget, CIP, and public improvements, follows:

- (a) Approving the FY 2005-2006 Capital Improvement Program; and,
Agency Resolution No. 5551 adopted. Abstain: Gregory, on issues pertaining to the Tropicana.
- (b) Amending the FY 2004-2005 Revenue Resolution to reflect various modifications to the FY 2004-2005 Revenues; and,
- (c) Amending the FY 2004-2005 Appropriations Resolution to reflect various modifications to the FY 2004-2005 Operating and Capital Budgets.

Agency Resolution No. 5552 adopted. Abstain: Gregory, on issues pertaining to the Tropicana.